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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

CLINTON BROWN, Plaintiff, vs. CLARK R. TAYLOR, AICP, THE LOS ANGELES COUNTY DEPARTMENT OF REGIONAL PLANNING, Defendant.	CASE NO. 2:22-cv-09203-MEMF-KS **Plaintiff's Reply to Defendant's Opposition to Motion for Deposit and Distribution** **Judge:** Honorable Maame Ewusi-Mensah Frimpong **Magistrate Judge:** Karen L. Stevenson **Action Filed:** 12/17/2022 **Action Due:** 01/12/2023

PLAINTIFF'S REPLY TO DEFENDANT'S OPPOSITION TO MOTION FOR DEPOSIT AND DISTRIBUTION

NOTICE TO THE COURT, contrary to the Defendant's assertions, Plaintiff is seeking a deposit and distribution of *interest, not compensation* pursuant to *40 U.S.C. § 3116(a)(2). (*Emphasis added*).* Interest is a question of fact for the trial Court, not the jury, as the right of interest rests upon the Fifth Amendment. The authority of depositing and distributing interest does not rest on the Federal Rules

of Civil Procedure, it rests upon the Constitution. A Federal forum was chosen by the Plaintiff to facilitate a speedy, just, and inexpensive resolution to the claim at bar. *(42 U.S.C. § 1983).*

Reply to Argument A

F.R.C.P. 71.1(a) provides a framework for Federal Courts, *except as this rule provides otherwise*, for eminent domain cases. (Emphasis added). It would presumably be immaterial to the scales of justice whether the Plaintiff or the Defendant is the government.

Defendant received service under penalty of perjury by a servicer. (Dk. 20). Defendant notified his superiors of such service. (Dk. 14, Attachment #1). Defendant filed a late Answer despite the service. (Dk. 10). Defendant's, *argumentum ad nauseam*, about service is frivolous.

Reply to Argument B

Defendant's misuse of *F.R.C.P. 7(b)* to conflate motions is unjustifiable. (Dk. 43, 4, lines 3-5; 5, lines 9-10). Regardless, if Plaintiff's referenced motion is granted or not, *F.R.E. 201(b)(2)* and *F.R.E. 201(c)(2),* requires the Court to justifiably consider the referred to motion without regard to the allegations and prejudices by the Defendant. *(F.R.E. 102).*

In a rich twist of irony, the Defendant cites *Penn Cent. Transp. Co. v. New York City, 438 U.S. 104, 98 S. Ct. 2646 (1978)* and *Lingle v. Chevron U.S.A. Inc., 544 U.S. 528, 125 S. Ct. 2074 (2005)* to support their argument that the Plaintiff lacks a *prima facie* claim. Defendant's own statement in the public record, filed in Federal Court proclaims the County, *"*has the right to prohibit construction of residential and/or commercial structures upon the property.*" (*Dk. 43, 4, lines 12-13). The record is clear that not even an environmental project (i.e., solar) will be permitted on the property. No matter what the Plaintiff dreams for the property it will be prohibited by the government. If that is not a Taking, then what is?

Reply to Argument C

The Defendant's attempt to prove that the property was in a SEA zone at the time of the purchase by relying on a publicly available GIS-NET system website, while simultaneously rejecting the County's own tax assessment record as lacking authentication and admissibility, is rich. (Dk. 43, 4, lines 17-18, Dk. 43, 5, lines 17-18, respectively).

Lastly, *every paper* filed in this Court is with the Plaintiff's declaration that under penalty of perjury of the laws of the United States of America that the *contents thereof are true*. (Emphasis added).

THEREFORE, Plaintiff respectfully requests that a deposit and distribution of interest pursuant to *40 U.S.C. § 3116(a)(2)* in an amount to be appropriately determined by the Court.

"I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct."

Clinton Brown 04/06/2023